

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

Bulletin 2001-2
Issued this 20th day of July, 2001

To: All Workers' Compensation Insurers Licensed in Minnesota

This bulletin contains the filing procedures and forms that should be utilized to expedite the review of workers' compensation filings made in Minnesota. The purpose of this bulletin is to assist workers' compensation insurers in meeting the filing requirements set forth in Minnesota Statutes and Minnesota Rules, and to provide insurers with additional information that will assist the department in expediting the review process. It supersedes Bulletins 98-2, 99-3, and 2000-1. Any enforcement action or filing disapprovals will be based on a case-by-case analysis in accordance with applicable Minnesota statutes and administrative rules.

1. Limited Power of Attorney – (LPOA)

Under Minn. Stat. 79.56, Subd. 1, each insurer is required to file with the commissioner "a complete copy of its rates and rating plan, and all changes and amendments thereto." This statutory language became effective January 1, 1996, and significantly changed workers' compensation filing procedures. The previous statutory language allowed insurers to automatically use all of the rating plans and other filings made by the Minnesota Workers' Compensation Insurers Association (MWCIA) on their behalf, and only required that each insurer file its schedule of rates and independent rating plan modifications for approval by the department.

The 1995 legislative revisions deleted the statutory language that permitted these so-called "reference filings", which made it necessary for each insurer to independently file all filings that were made by the MWCIA. Because of the administrative burden of this requirement, the department permitted insurers to continue to use all filings made by the MWCIA if the insurer filed a letter of authorization making that election by September 1 of each year.

This procedure also proved to be cumbersome, so the department agreed to an alternative proposed by the industry that permits an insurer to elect to continue to use MWCIA filings by submitting a one-time Limited Power of Attorney (LPOA). A copy of the LPOA is attached for your reference. The LPOA remains in force until the insurer notifies the department that it intends to revoke the authorization. Since this option was introduced in April of 1999, over 300 workers' compensation insurers have filed the LPOA.

If your company is recently licensed, has been inactive or you have other questions regarding whether the LPOA has been filed on its behalf, please contact the department.

2. Items for which separate filings are required:

- a. schedule of rates;
- b. rate deviations;
- c. dividend plans;
- d. policy forms;
- e. endorsements; and
- f. retrospective rating plans.

[Minnesota Rule 2605.0200(F)]

3. Basic Schedule of Rates filings should contain the following items:

- a. The Workers' Compensation Rate Filing Form (ed. 7/01) should be completed. A copy of this form is attached for your reference.

Please note: Your rate filing must be based on the January 1, 2002 Ratemaking Report. The previous Ratemaking Report is no longer effective for the purposes of new rate filings with effective dates of January 1, 2002 or later.

- b. Five years of loss and expense experience must be submitted. If the company has not been writing workers' compensation coverage in Minnesota for five years, as much Minnesota experience as is available should be submitted. If five years of countrywide experience is available, that should also be submitted [Minn. R. 2705.2500, Subp. 1].
- c. You must include an exhibit describing how the company's pure premium base rate multiplier was developed [Minn. R. 2705.1800(E)]. The department does not require the format of the company's exhibit to be identical to the sample format, but the company's exhibit should not neglect any of the items included in the sample. For example, if the company chooses not to use trend or development factors, it should not simply leave out any mention of such factors; it should explain and support its choice. Please be aware that the Minnesota Adoption of Rate Service Organization Prospective Loss Costs Reference Filing Adoption Form, which is used for other property/casualty lines, is not suitable for use with workers' compensation rate filings.

Also, your pure premium base rate multiplier calculation should not include the .25 percent assessment for the Assigned Risk Plan Review Board, as the authorization for this board expired effective June 30, 1997.

- d. If the company is deviating any classification codes the Class Code Deviation Filing Form and the Average Effective Multiplier Calculation must be submitted. A copy of these forms is attached for your reference. There is no limit on the number of classification codes that may be deviated. Each deviation must be supported, and this supporting documentation must be submitted as a part of your filing [Minn. R. 2705.1800(E)].
- e. The Special Compensation Fund assessment must be referenced in all rate filings. Please clearly indicate whether it is included in the calculation of the pure premium base rate multiplier or if it is added to the premium as a surcharge. If the SCF assessment is being added to the premium as a surcharge you must complete the Average Effective Multiplier Calculation. The surcharge also must appear as a specific item on your rate pages [Minn. R. 2705.1800 (E)].
- f. Final manual rate pages must be submitted [Minn. Stat. 79.56, Subd. 1]. When calculating your rates for classification codes for which Minnesota Contractors Premium Adjustment Program (MCPAP) pure premium base rates appears, those are the base rates that must be used. Use of the DSR pure premium base rates will result in artificially low rates.
- g. We also request that the company submit an extra copy of any materials it wants returned for acknowledgment of the department's approval. A stamped self-addressed envelope bearing sufficient postage for the materials the company wants returned must also be submitted. If no envelope is enclosed, or the amount of postage is inadequate, a stamped copy of the most recent cover letter is the only documentation that will be returned.
- h. Do not send copies of rate filings to the MWCIA until approval has been received from this department. This ensures that the MWCIA has a correct copy of your most recent rates on file.

4. **Schedule Rating Plans**

Schedule rating plans may contain a maximum credit and or debit of up to 40 percent without actuarial support. Any credit or debit greater than 40 percent requires convincing actuarial justification. This actuarial support must be based on experience.

5. **Additional Credits**

The following types of additional credits have been approved for use in Minnesota.

a. **Drug-Free Workplace**

Insurers who file drug-free workplace programs that meet the requirements of Minn. Stat. 181.950 – 181.957 may offer a 5 percent credit. An insurer can file a larger credit if it can provide adequate actuarial support.

The department recommends, but does not require, that insurers attach an amendatory endorsement to the policy that contains a statement similar to the following:

“Employers insured under this coverage should be aware of the Drug and Alcohol Testing In The Workplace provisions contained in Minn. Stat. 181.950 – 181.957. An insured employer that violates this law may have exposure for damages, attorney fees, and injunctive relief that will not be covered by this policy.”

b. **Managed Care**

The department will approve a 5 percent credit for insurers who have contracted with a managed care organization that is certified under Minn. Stat. 176.1351. An insurer can file a larger credit if it can provide adequate actuarial support. If the insurer is offering a managed care program, but has not contracted with a certified managed care organization, a credit may be offered if the company can provide actuarial support for the amount of the credit being requested. The maximum that has been approved to date has been 3 percent.

The department recommends, but does not require, that insurers attach an amendatory endorsement clarifying the type of managed care coverage that is being offered. Two sample endorsements are included in the bulletin, one to be used when a certified managed care organization has been contracted with and the other to be used when an uncertified managed care organization is being utilized.

c. **Collective Bargaining Dispute Resolution**

The department will allow a credit of 3 percent to be offered to an employer that is a party to a collective bargaining agreement that has been approved by the Minnesota Department of Labor and Industry in accordance with Minn. Stat. 176.1812. An insurer can file a larger credit if it can provide adequate actuarial support.

Insurers who choose to offer such a credit must file a Minnesota Dispute Resolution Endorsement similar to the one included in this bulletin. The endorsement language has been approved by both the Department of Labor and Industry and the Department of Commerce.

d. Safety Programs

Minnesota Statute 79.085 requires that all insurers writing workers' compensation insurance in Minnesota shall provide safety and occupational health loss control consultation services to each of their policyholders requesting the services in writing. Insurers may offer a credit of up to 3 percent to policyholders who request these services. An insurer can file a larger credit if it can provide adequate actuarial support.

e. Return-To-Work Programs

The department has approved credits of up to 2 percent for insurers that want to provide an incentive for insureds to comply with the statutory return-to-work requirements. An insurer can file a larger credit if it can provide adequate actuarial support.

6. Deductibles

Minnesota Statute 79.081, Subd. 1, requires each insurer writing workers' compensation in Minnesota to make a deductible available to a policyholder upon request. An insurer is not required to offer a deductible to an employer if, as a result of credit investigation, the insurer determines that the employer is not sufficiently financially stable to be responsible for the payment of deductible amounts. This exception is found in Minn. Stat. 79.081, Subd. 3.

7. Large Deductible Plans

Any company offering a large deductible plan must include a statement in its rating manual certifying that no deductible limit or excess retention will be offered or written that exceeds the company's retention limit with the Workers' Compensation Reinsurance Association (WCRA). [Minn. Stat. 79.34]

8. Dividend Plans

If more than one dividend plan is being filed, the various plans must be accompanied by objective and logical assignment criteria. It must be demonstrated that the process does not permit the possibility of different final premiums for identical policyholders [Minn. Stat. 79.074].

9. Form Filings

Insurers must use the forms filed on their behalf by the MWCIA, unless it is a rating related endorsement for which the MWCIA has not made a suitable filing. The applicable administrative rule is Minn. R. 2705.3200. This rule states as follows:

"Workers' compensation insurance must be written using policy forms filed by the data service organization of which the insurer is a member except that if the insurer files a rating plan requiring a policy provision or endorsement for which the data service organization has made no usable filing, then the insurer may file its own policy forms needed to implement its rating plans."

Some examples of the types of independent forms that may be filed are dividend plan endorsements, managed care endorsements, drug-free workplace endorsements, and collective bargaining dispute resolution endorsements.

10. **Minnesota Statute 79.56, Subd. 3**

Effective August 1, 2001 this statute creates an exception to the normal filing requirements for an employer who generates \$250,000 in annual written workers' compensation premium in Minnesota under the rates and rating plan of an insurer before the application of any large deductible rating plans. Such an employer may be written by an insurer using rates or rating plans that are not subject to disapproval, but which have been filed with the department.

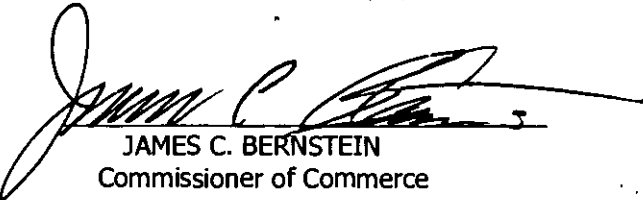
11. **Premium Algorithm**

Our department actuaries have recently agreed to accept premium algorithm filings. If you wish to adopt a premium algorithm, it should be filed with the department for informational purposes.

12. **Cancellation for Nonpayment of Premium**

Our department staff attorneys have recently reviewed the question of whether Minn. Stat. 60A.36, Subd. 2 or Minn. Stat. 176.185, Subd. 1 controls for purposes of cancellation of a workers' compensation policy based on nonpayment of premium. It is their determination that insurers are to comply with the requirements of section 60A.36 in addition to the requirements of section 176.185, Subd. 1. Therefore, the minimum number of days notice that can be given when canceling a workers' compensation policy on the basis of nonpayment of premium is 30 days. If you have a cancellation endorsement on file with the department that provides for less than 30 days notice for cancellation based on nonpayment of premium; it must be withdrawn or revised to provide 30 days notice.

Questions regarding this bulletin should be referred to Tammy L. Lohmann, Senior Commerce Analyst, (651) 296-2327.



JAMES C. BERNSTEIN
Commissioner of Commerce

Minnesota

Workers' Compensation Rate Filing Form

Name of Company

Effective Date of Filing: _____

Overall Effect of Rate Change: _____

1. ☐ We have used the 2002 Ratemaking Report pure premium base rates with NO deviations by class and a multiplier of _____.
☐ We have deviated from the 2002 Ratemaking Report pure premium base rates for selected classes.
 - The Class Deviation Filing Form is attached.
 - The multipliers used to determine the rates from _____ to _____.☐ Other (Attach a complete explanation of the rates and methodology.)
2. ☐ The Special Compensation Fund Assessment is included in the multiplier applied to the pure premium base rates.
☐ The Special Compensation Fund Assessment varies by class and is calculated using the percentage of indemnity from the Ratemaking Report.
☐ The Special Compensation Fund Assessment is a separate surcharge of _____%.
☐ Other: _____
3. ☐ The average effective multiplier is equal to the actual multiplier and is _____.
(note: If there are no class deviations and if the Special Compensation Fund Assessment is included in the multiplier, then the actual multiplier is the effective multiplier.)
☐ The average effective multiplier is _____.
(note: Documentation to support the calculation of the average effective multiplier must be attached. A sample calculation is included in the Bulletin.)

CLASS DEVIATION FILING FORM

Insurer Name _____

Effective Date _____

Code No.	Classification Title	Current Rate	Proposed Pure Premium Multiplier	New Rate	Percent Rate Change	Prior Year Written Premium
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

Class Deviations shall apply to all insureds classified in codes for which a deviated rate has been filed.

Signature

Date

MINNESOTA WORKERS' COMPENSATION CERTIFIED MANAGED CARE PLAN ENDORSEMENT

The insurer has contracted with _____, a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. section 176.1351. Under this contract medical treatment for your employees' work-related injuries will be delivered and managed according to the managed care plan as certified and applicable state law.

The certified managed care plan must provide medical case management by licensed health care professionals, to ensure appropriate medical care and promote a prompt return to work. The managed care plan must also provide a process for resolving medical disputes. This dispute resolution process must be exhausted before the medical dispute may be filed with the Minnesota Department of Labor and Industry.

Your employees are covered by certified managed care for work injuries that occur after they have been given specific information about their rights and responsibilities under the managed care plan. A covered employee may be required to receive treatment for a work injury from a health care provider who is part of the plan's provider network. There are exceptions to this requirement, such as in an emergency and in some cases where the employee has a history of treatment with another health care provider. The managed care plan will help you notify your employees of coverage and will explain these and other exceptions to managed care coverage.

MINNESOTA WORKERS' COMPENSATION UNCERTIFIED MANAGED CARE ENDORSEMENT

The insurer has contracted with _____, a health care provider network, to provide health care services for employees with work-related injuries. [*If applicable*: these health care providers may be paid for their services at discounted or negotiated payment rates.]

This program is not a workers' compensation managed care plan certified by the Minnesota Department of Labor and Industry under Minn. Stat. section 176.1351. Therefore, the employer or insurer may not require an employee to receive treatment for a work injury from any health care provider within this network.

SAMPLE DEVELOPMENT OF PURE PREMIUM MULTIPLIER

A. LOSS RELATED ITEMS

1. Loss cost modification factor	1.000	
2. 8th-to-ultimate development factor	1.107	
3. Trend factor	1.054	
4. Loss adjustment expense (LAE)	0.255	
5. Special Compensation Fund	0.150	
6. Loss factor ($A1 \times A2 \times A3 \times (1 + A4 + A5)$)		1.639

B. PREMIUM-RELATED EXPENSES AND PROFIT

7. Commission and brokerage	0.064	
8. Other acquisition	0.061	
9. General expenses	0.083	
10. Taxes, licenses & fees		
a. Premium taxes	0.020	
b. Other	<u>0.005</u>	
11. Total premium-related expenses (sum of B7 through B10)	0.238	
12. Profit & contingencies	0.060	
13. Credit for investment income	<u>-0.160</u>	
14. Total premium-related expense & profit (B11+B12+B13)	0.138	
15. Expected loss and LAE ratio ($1.0 - B14$)		0.862

C. FORMULA LOSS COST MULTIPLIER ($A6 / B15$)

1.902

D. SELECTED LOSS COST MULTIPLIER

NOTE: The department does not require the format of the company's exhibit to be identical to the sample format, but the company's exhibit should not neglect any of the items shown above. The numbers used in this sample exhibit are illustrative only. The company should be able to explain and support its numbers.

**MINNESOTA WORKER'S COMPENSATION
AVERAGE EFFECTIVE MULTIPLIER CALCULATION**

This form must be completed by any company that deviates its multiplier for one or more classes or that does not include a charge for the Special Compensation Fund (SCF) in its multiplier

(1) code number	(2) current pure premium multiplier	(3) proposed pure premium multiplier	(4) SCF charge if not already included in (3) (% of pure prem)	(5) adjusted pure prem multiplier [(3)+(4)]	(6) prior year written premium	(7) relative exposure [(6)/(2)]	(8) relative proposed premium [(7)x(5)]
2731	1.600	1.550	0	1.550	1500	938	1453
4777	1.600	1.450	0	1.450	23100	14438	20934
4902	1.500	1.450	0	1.450	0	0	0
4923	1.500	1.450	0	1.450	42000	28000	40600
5000	1.600	1.550	0	1.550	155000	96875	150156
5020	1.600	1.550	0	1.550	10000	6250	9688
All Other	1.700	1.700	0	1.700	500	294	500
Total						146794	223331
Average effective pure premium multiplier [(8) total / (7) total]							1.521

SAMPLE

**LIMITED POWER OF ATTORNEY FOR
PURPOSE OF REGULATORY FILINGS**

TO: Minnesota Department of Commerce, Property/Casualty & Self-Insurance Division

RE: Workers' Compensation Rating Plan Filings

Effective Date: _____

This limited power of attorney is filed on behalf of the following insurers licensed to write workers' compensation in Minnesota.

_____	_____
_____	_____
_____	_____
_____	_____

The above insurers hereby designate and appoint the Minnesota Workers' Compensation Insurers Association, Inc. (MWCIA) as their attorney-in-fact for the following limited purposes only.

(a) To file with the Minnesota Department of Commerce in the name and on behalf of each of the above named insurers all rating plan filings and modifications filed by MWCIA with the Department of Commerce and approved by the Department for use in Minnesota.

(b) This limited power of attorney does not apply to any filings made by one or more of the above insurers which further modify or elect not to use any of the filings made by the MWCIA and does not apply to rate schedules filed by the insurers. Such individual insurer filings are filed as an exception to the MWCIA filed plans and those filings, together with individual insurer rates upon approval by the Department of Commerce or as provided by statute, will supersede any applicable MWCIA filings.

(c) This limited power of attorney is filed to effect partial compliance with Minn. Stat. § 79.56, subd. 1 ("each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto") and for no other purpose. The authority granted by this document is specifically and explicitly limited to that purpose and may be withdrawn at any time by the above named insurers upon written notice to the Department of Commerce and the MWCIA.

(d) The above named insurers specifically acknowledge that each filing must be in conformance with the filing procedures of the Minnesota Department of Commerce and must be accompanied by a filing fee where appropriate. Each insurer acknowledges that it has the individual liability to assure that each and every filing complies with its obligations under applicable Minnesota law. This document does not shift these obligations to the MWCIA. Neither the above named insurers nor the Department should look to the MWCIA as a guarantor that these obligations are met. Under this limited power of attorney, the MWCIA serves solely as the empowered filing agent for the above named insurers.

Signature

Print Name

Title

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me this

_____ day of _____, 1999.

Notary Public

Encl.: Minnesota Property and Casualty Transmittal Form
\$75 filing fee to Minnesota Department of Commerce

cc: Minnesota Workers' Compensation Insurers Association, Inc.
7701 France Avenue South, Suite 450
Edina, Minnesota 55435

MINNESOTA DISPUTE RESOLUTION ENDORSEMENT

This endorsement modifies insurance under the following:

Workers Compensation and Employers Liability Insurance Policy

Name Insured: _____

Policy Number: _____

Endorsement Effective Date: _____

Endorsement Number: _____

This endorsement is issued by the company named on the Information Page. It forms a part of the policy as of its effective date, at the hour stated on the Information Page.

We agree that all Workers' Compensation claims with employees who are subject to collective bargaining agreements with the Insured will be resolved in accordance with the rules and regulations of said agreements as authorized under Minn. Stat., Section 176.1812 provided that such agreement(s) have been approved by the Commissioner of Labor and Industry. The Named Insured will provide us with copies of all such agreements and the Commissioner's approval of each agreement.